

used exclusively for the purpose of transporting ocean shipping containers, which the Section refers to as "container chassis."

The section provides that a State, such as California, that requires annual registration and apportioned fees for container chassis may not limit the operation, or require the registration in the State, of a container chassis registered in another State, if the container chassis is operating under a trip permit issued by the non-registration State. Further, the non-registration State may not impose fines or penalties on the operation of such a container chassis for being operated in the non-registration State without a registration issued by that State. For example, the Attorney General of California or any other person in California, may not seek to impose fines or penalties from companies operating container chassis in California, when the container chassis are registered in another state such as Maine or Tennessee.

Further, under this language, a State that requires annual registration of container chassis and apportionment of fees for such registration may not deny the use of trip permits for the operation in the State of a container chassis that is registered under the laws of another State. A trip permit provides for a daily use fee that is the prorated annual registration fees for the vehicle. Under the section, a trip permit is required only on days when the container chassis is actually operating on the State's roads and not, for example, when it remains at an ocean terminal for the entire day.

This section also provides that a State, political subdivision or person may not, with respect to a container chassis registered in another State, impose or collect any fee, penalty, fine, or other form of damages which is based in whole or in part on the nonpayment of a State's registration related fees attributable to a container chassis operated in the State before the date of enactment of this section unless it is shown by the State, political subdivision or person that the container chassis was operated in the State without a trip permit issued by the State.

This provision is intended to prevent the imposition of any liability on this basis for the current and past practice of many companies in the container shipping industry which register chassis in one State and operate them in another State under trip permits issued by the non-registration State. The provision is intended to ensure that past and current practices which are consistent with the objectives of this section will not be the basis for the imposition of fees, penalties, fines or other forms of damages on this segment of the Nation's intermodal transportation system.

Using the congressional power to regulate interstate commerce, this section is intended to facilitate movement of containerized cargo in interstate com-

merce and to remove an unreasonable impediment to interstate commerce. It simplifies and rationalizes registration requirements for this critically important segment of the Nation's interstate intermodal transportation system.

It is important to note that extensive discussion and consideration was given to this section. Members from the Senate Commerce Committee, Appropriations Committee, and the House Appropriations and the House Transportation and Infrastructure Committee worked on this language and came to the conclusion that it is necessary. It is clearly the intent of both Chambers of Congress that States, such as California and others, which want to limit the operation of chassis that are not registered in their State, are prohibited from doing so. Further, it is clearly the intent of both Chambers of Congress that States, such as California and others, are prohibited from collecting fines or penalties from companies which register chassis in another State and operate under a trip permit issued by the State where the chassis is operated.

Mr. LEVIN. Mr. President, Yogi Berra, explaining the difficulty of playing in the afternoon sun and shadows of Yankee Stadium's notorious left field is reported to have commented, "It gets late early." We have before the Senate a huge Omnibus Appropriations and Emergency Supplemental bill which spends more than \$486 billion and legislates across a broad range of issues of great importance. We are faced now with this massive, sweeping legislation because the 105th Congress did not do its work. In the 105th Congress, it got late early.

From the very outset of this Congress, the majority leadership set a slow pace and avoided fully addressing the major issues before the Nation. The 105th Congress failed to reform our campaign finance laws, failed even to debate a patient's bill of rights, failed to act on legislation to reduce tobacco use by our young people, failed to even to take up serious regulatory reform, and failed to address the problems looming in the future of Social Security. In fact, this Congress, failed, this year to even meet its responsibility, under law, to pass a budget, the first time this has occurred. And, it failed to complete work on 8 of the 13 appropriations bills required to run the government. Two appropriations bills were never even debated by the Senate and a third was never passed. On top of that dozens of legislative proposals were added to this bill which were never debated and considered in the Senate.

The failure to pass the appropriations bills, as required, prior to end of the fiscal year on October 1, led directly to the process that confronts us with this monster Omnibus Appropriations bill today, a four thousand plus page bill which we were unable to even begin reading until yesterday.

The Founders of our Nation envisioned a careful contemplative legisla-

tive process which divided power and sought to assure that the people would be well represented. The process which we have recently witnessed was hardly that. It was a closed process, which greatly excluded Democrats in the House and Senate, enhancing the powers of the Republican leaders of the House and Senate and in an extra-Constitutional fashion bringing the President into a legislative role. Where the Congress was more fully represented, its representation was limited to the members and leaders of the Appropriations Committees of the House and Senate. This, despite the fact that legislation was included affecting the jurisdictions of many, if not all, of the authorizing committees. And then, the entire package was lumped together and dumped here on the Senate floor on a take it or leave it basis. Senators have no opportunity to attempt to amend this product, merely to vote yes or no. Never before in my memory have we been confronted with appropriations bills and legislative provisions on so massive a scale which have never even been considered in either the House or Senate.

The President, and Democrats in the Congress have won some important victories in this bill. However, even as we acknowledge and applaud those victories, we must be mindful of the precedents which we set when we accept this terrible process. Congress should not abdicate its responsibilities. That is why I joined with Senators BYRD and MOYNIHAN in fighting the line-item veto in the courts, a battle which was successful and that is why I am distressed by the process which creates the bill on the floor today, an ad-hoc process at best and a process which effectively disenfranchises many Americans by short-changing their representation, at worst. And that is why, although this legislation contains many provisions of which I approve, and although I applaud the work of the Administration and Democrats in Congress in winning important provisions in this bill, I do not support this wretched process and cannot in good conscience vote for this bill.

Among the most important positive aspects of this legislation is that the bill provides additional funding for education. The President and Democrats in the Congress put forward an education package early this year. This bill finally acts on key elements of that package, providing a \$1.2 billion downpayment on reducing class size by hiring new teachers across the country. In addition, the bill includes \$698 million for education technology, the \$260 million that the President requested for child literacy, \$871 million for summer jobs, a \$301 million increase for title I, \$491 million for Goals 2000, and a \$313 million increase for Head Start.

Unfortunately, the bill excludes the President's school modernization initiative which would have leveraged nearly \$22 billion in bonds to build and renovate schools. Hopefully, we can revisit this issue in the next Congress.

The bill includes \$15.6 billion for National Institutes of Health, \$2 billion more than FY'98 and \$859 million more than the Administration request, \$700 million for Maternal and Child Health Block grant, \$9.4 million more than FY'98, \$105 million for Healthy Start to reduce infant mortality rates, \$9.5 million more than FY'98, \$160 million for breast and cervical cancer screening, \$16.2 million over FY'98, and \$2.5 billion for Substance Abuse and Mental Health Services, \$341 million above FY'98.

Also, I am pleased that the bill contains language which is a first step toward restructuring the home health care payment system. I have been concerned about this problem for some time now. I was an original co-sponsor of Senator COLLINS' Medicare Health Equity Act of 1998 I believe the provision in the Omnibus bill will create a payment system which is somewhat more equitable than the current system. Under our current system, health care providers in Michigan have too often been penalized for prudent efficient use of Medicare resources, and that is wrong.

In addition to the nearly six billion dollars in the bill for emergency assistance to farmers who have been hurt by low prices, drought and natural disasters, it contains important money for Michigan agriculture for research on subjects from fireblight to wood utilization. There is a provision to make apple growers in West Michigan, who suffered fireblight-related tree loss in disastrous storms, eligible for the Tree Assistance Program. The bill provides the President's request for an enhanced food safety incentive, plus an increase in the National Research Initiative of \$7.4 million for nutrition, food quality and health. Some of these additional funds could and should be used by the Secretary to help develop safer substitutes for pesticides that might be discontinued in implementation of the Food Quality Protection Act. Also, the agreement includes \$300,000 for a study of the WIC food package nutritional guidelines finally looking at the benefits of including dried fruit in WIC cereals.

I am pleased that the bill continues a moratorium on the use of funds to increase the CAFE standard for passenger cars and light-duty trucks. Given the low-price of gasoline and the continued high consumer demand for larger, safer vehicles, which are made most efficiently by U.S. manufacturers, increasing CAFE would only harm the U.S. economy and deprive consumers.

I am disappointed funding for the National Contaminated Sediments Task Force which I requested was not included in the bill. I am concerned that this will mean that the existing uncoordinated Federal approach will continue to fail in adequately cleaning up contaminated sediments and preventing further contamination.

There will be an additional \$400,000 above the President's request split be-

tween operations and acquisition at Keweenaw National Historical Park. The bill includes \$800,000 for land acquisition at Sleeping Bear Dunes National Lakeshore, and \$2.25 million for the final phase for acquisition of lands from the Great Lakes Fishery Trust as part of the Consumers Energy Ludington settlement.

This agreement provides the budget request for the International Joint Commission so that negotiations with the Canadians can begin in earnest to prevent the export of Great Lakes water. The bill includes \$6.825 million for the Great Lakes Environmental Research Laboratory in Ann Arbor. Funds (\$50,000) for a study of the erosion problems in Grand Marais Harbor are also included. Unfortunately, the bill does not include the Senate's increase of \$1 million above the budget request for the Great Lakes Fishery Commission to combat the sea lamprey in St. Mary's River.

Overall, the bill provides the highest level of funding for the Federal Highway Administration in history, at \$25.5 billion. That is relatively good news, though, unfortunately, the negotiators have included over \$300 million in new highway money to be handed to four different states in an apparent effort to bypass the allocation formulas in TEA-21 that were the subject of much debate earlier this year.

The bill does contain \$10 million for new buses and bus facilities across facilities, and \$600,000 for the Capital Area Transit Authority in Lansing. And, \$200,000 for a study of the viability of commuter rail in Southeastern Michigan.

As a cosponsor of legislation to delay implementation of Section 110 of the 1996 Immigration Reform bill, which was scheduled to go into effect on September 30, 1998, requiring individuals entering the U.S. at the Canadian border to complete a visa card at the point of entry and register at the time of exit, I am pleased to note that this bill contains language delaying the provision for 30 months. However, it should be repealed, not just delayed.

I am pleased that the bill does not include the House version of the Auto Salvage Title bill since the House dropped the Levin amendment which I successfully attached to the Senate bill. The House version would have preempted state laws that provide tougher consumer protection.

I am also pleased that while the bill provides funding to replenish the IMF, it will push recipient countries to liberalize trade restrictions.

Mr. President, let me take a moment to comment on the national security provisions of the omnibus bill. First, I am pleased that this legislation includes the funding the President requested for United States participation in the NATO-led peacekeeping force in Bosnia.

If Congress had not provided this emergency funding, there would have been disastrous consequences for the

readiness and the morale of our forces serving in, and in support of, Bosnia. We all regret that the implementation of the civilian aspects of the Dayton Accords has not gone as fast as we hoped it would, but Congress has done the right thing by providing the necessary funding to ensure the readiness of our forces.

This legislation provides a needed \$1 billion in additional readiness funding that the President requested earlier this month for equipment maintenance, spare parts, and recruiting assistance.

This omnibus bill also contains the funds requested by the President for the Korean Peninsula Energy Development Organization, also known as KEDO. This funding is crucial to continuing the Agreed Framework between the United States and North Korea. That agreement is our best hope for denuclearizing North Korea and has provided tangible security benefits to our nation.

Previous legislation would have effectively prevented the funding of KEDO, and thus given North Korea an excuse for walking away from the Agreed Framework. That could have led North Korea to produce plutonium for nuclear weapons, which would cast the Korean Peninsula into an unnecessary and dangerous crisis. This outcome is the right one.

There are many positive aspects of this legislation for our national security, but I am disappointed that so much of the "emergency" funding in this bill for national security programs is not for readiness and not for emergencies, but for things the Defense Department and the administration never asked for, in particular the addition of \$1 billion for ballistic missile defense. Of course, that \$1 billion for ballistic missile defense cannot be spent unless the President submits an emergency request for these funds. I fully expect the Administration will exercise good judgement in deciding whether or not to request these funds as an emergency.

Not only is the money added to this bill for missile defense and intelligence programs going to fund programs that the administration did not request funding for on an emergency basis, again, these are programs for which the administration did not request funding at all.

Furthermore, with regard to missile defense, adding this funding is in direct contradiction to the testimony of the Secretary of Defense and other senior officials of the Department of Defense who told the Armed Services Committee that while there was one instance in which additional funds could accelerate a program, the Navy Upper Tier program, in general the Ballistic Missile Defense Organization is proceeding as fast as it can with all our missile defense programs and their development is constrained by technology, not funding availability.

In recent testimony to the Armed Services Committee, senior defense and

military leaders told us that the National Missile Defense (NMD) program is going as fast as it can, and that adding more money will not make it go faster. Deputy Secretary of Defense John Hamre told the Committee: "As a practical matter, we are moving as fast as we can to develop the elements of an NMD system. Even with more money, we couldn't go any faster." He later emphasized that "this is as close as we can get in the Department of Defense to a Manhattan Project. We are pushing this very fast."

During that same hearing, General Joseph Ralston, the Vice Chairman of the Joint Chiefs of Staff, told the Committee that the NMD program enjoys a unique and privileged status within the Defense Department. He said: "I know of no other program in the Department of Defense that has had as many constraints removed in terms of oversight and reviews just so we can deploy it and develop it as quickly as possible."

On October 6th, Secretary of Defense William Cohen testified to the Armed Services Committee that the NMD program is being developed as fast as possible and additional money will not speed it up: "I have talked to the head of the Ballistic Missile Defense Organization and he has assured me that no amount of money will accelerate that timetable . . ." He went on to say that "I cannot accelerate it no matter what we do."

So, it is clear that the Defense Department is proceeding as fast as possible to develop a National Missile Defense system, and that more money will not make this go any faster. Furthermore, the Defense Department has told us that only one program could be accelerated with more money. I would note that Congress added \$120 million to the Navy Upper Tier program this year to accelerate it, cut funds from other theater missile defense programs and made no attempt in the regular legislative process to add any money for National Missile Defense. So this unrequested missile defense money cannot speed up most of the programs that are now being developed. It is not clear what it would be for, but it is clear that the Defense Department never asked for it.

A few weeks ago, the members of the Joint Chiefs of Staff were criticized by some of my colleagues on the Armed Services Committee during our hearings with them for not speaking up soon enough or forcefully enough about concerns they had with aspects of our defense program.

Mr. President, it seems a little inconsistent to me for the Congress to criticize the Pentagon for not speaking up and then after they express themselves very clearly on the status of the missile defense program, we ignore their testimony and do the opposite of what they say.

I am also disappointed that this legislation perpetuates the practice of not fully funding our obligations to the United Nations. It is in the national se-

curity interest of the United States to have an effective United Nations and strong U.S. leadership within the United Nations. It is especially regrettable that this legislation moves us in the opposite direction in order to score political points on the abortion issue.

Mr. President, the bill that we are voting on today includes S. 2176, the Federal Vacancies Reform Act of 1998, with several amendments. This legislation clarifies and updates the current Vacancies Act, an 1868 law meant to encourage the Administration to make timely nominations to fill positions in the Executive Branch requiring the Senate's advice and consent.

First, the Vacancies Act provisions in this bill make it explicit that the Vacancies Act is the sole exclusive statutory authority for filling advice and consent positions on a temporary basis. It can no longer be argued that other general statutory authorities creating or organizing agencies supersede the Vacancies Act and authorize temporary officials, who have not been confirmed by the Senate, to serve indefinitely.

Second, the legislation updates the Vacancies Act in several significant respects to more accurately reflect the realities of today's nominations process. The clearance process for nominees requiring Senate confirmation has become much more complex than it was just a decade ago. Moreover, increasingly adversarial confirmation proceedings have required that background investigations and other steps in the vetting process be more thorough and lengthy. In recognition of this development, the legislation increases the time period that an individual can serve in an acting position from 120 days under current law to 210 days from the date of the vacancy. If a nomination is sent to the Senate during that 210 day period, an individual may serve in an acting capacity until the Senate has completed action on the nomination. Moreover, the legislation gives a new Administration an additional time period of 90 days to submit its nominations in the first year. The legislation allows first assistants, other Senate-confirmed officials, and other qualified high-level agency employees to serve as acting officials.

Finally, the legislation creates an action-enforcing mechanism to encourage our presidents to promptly submit nominations. Specifically, the legislation provides that if no nomination to fill a vacant position is submitted within the 210 day period, the position remains vacant and any duties assigned exclusively to the position by statute can be performed only by the agency head. As soon as a nomination is submitted, however, the legislation provides that an acting official can assume the job until the Senate acts on the nomination.

The legislation also includes an amendment I authored to address the problem of lengthy recesses or adjournments. The bill allows a person to serve

in an acting capacity in a vacant position once a nomination is submitted, regardless of whether the nomination is submitted within or after the 210 day time period. This is a clarification the legislation makes to current law. However, there was no provision to allow a person to serve in an acting capacity after the 210 day time period if the nomination is made during a recess or adjournment of the Senate. My amendment, incorporated into the enacted legislation as section 3349d, provides that during such long recesses, the President's submission of a written notification that he or she intends to nominate a designated person promptly when the Senate reconvenes triggers the provision of the bill that allows a person to act in the position temporarily until the Senate acts on the nomination. This allows the President to fill a vacant position with an acting person during a long recess of the Senate provided the President has identified the person whose nomination will be submitted when the Senate returns.

Mr. President, I want to commend my colleagues Senator BYRD and Senator THURMOND for their leadership and sponsorship of legislation to amend the Vacancies Act. They identified a serious problem in the failure of Administrations past and present to comply with their responsibilities under the existing law to promptly nominate persons to fill advice and consent positions. They worked diligently to resolve the various conflicts over this legislation, and I am pleased we were able to bring this legislation to a responsible and timely conclusion.

As we adopt these reforms to the Vacancies Act, we should not forget that as Senators we have a corresponding duty to act promptly and responsibly on nominations once they are submitted by the Administration. We as the Senate rightfully want to protect our Constitutional prerogative to provide advice and consent on nominations. However, we must by the same token discharge these duties in a conscientious and timely manner.

Mr. President, I also want to mention one piece of legislation which the Congress failed to address this year and which was not folded into this Omnibus Appropriations bill in the final hours of this Congress. I am very disappointed that we were not able to enact legislation to improve the regulatory process this year. Senator THOMPSON and I sponsored S. 981, the Regulatory Improvement Act. We had two hearings on the bill and marked it up in the Governmental Affairs Committee back in March of this year. It was reported to the full Senate for consideration in May. The Administration signaled its support for the bill with certain agreed-to changes in July. And, we've been urging that the Majority Leader bring the bill to the floor since that time. The bill now has 17 Republican and 8 Democratic cosponsors.

S. 981 is a reasonable approach to improving the regulatory process by requiring cost-benefit analysis and risk

assessment for our most significant regulations. It would bring meaningful reform to the way the federal government adopts its regulations, and it would make the rulemaking process far more open and interactive. We lost a great opportunity this year and invested a lot of hard work and effort.

**FURTHER RESEARCH ON FIBER POLYMER ADDITIVES IN ASPHALT AND CONCRETE IN CONNECTION WITH THE TRANSPORTATION APPROPRIATIONS ACT**

Mr. THURMOND. Mr. President, I rise to engage in a brief colloquy with my colleague, the Honorable Chairman of the Transportation Appropriations Subcommittee, Senator RICHARD SHELBY.

Included in the Senate Appropriations Committee Report accompanying the Transportation and Related Agencies Appropriations Act for fiscal year 1999, is a provision directing that additional research be conducted on a product that I believe could greatly improve highway pavement quality and maintenance. I am speaking of the use of fiber polymer additives—also known as “binders”—in asphalt and concrete, the use of which appears to yield significant results in pavement quality and longevity.

While only a limited amount of research has been completed on this product, the few applications tested under real world circumstances have shown very positive results. If this product is as good as it appears to be in initial test results, it would revolutionize the industry and save states and the Federal Government significant resources for use on other critical infrastructure needs.

Not only does this product appear to add significant longevity to pavement life, it also serves an environmental benefit. Mr. Chairman, as you know, recycling allows us to conserve our natural resources, it diverts additional material from our landfills, and saves energy. A company in my home state of South Carolina, Martin Color-Fi, Inc., has empirical data that shows substantially improved life expectancy for highways constructed with polymer additives in the pavement. Their success, and that of others in this area, is encouraging news for improving the quality and longevity of our Nation's highways.

I note that the Statement of Manager's language accompanying the Transportation title of the Omnibus Appropriations Act, unlike the Senate Committee report, does not specify the amount of funds in the Highway Research, Development and Technology Program for the Federal Highway Administration (FHWA) to conduct additional demonstrations of this technology. It is my understanding that Chairman SHELBY shares my commitment to this research. Further, it is my understanding that he and other members of the committee would join me in strongly encouraging FHWA to work with an academic institution, and give priority consideration to applying

at least the amount of research funds specified in the Senate-passed Transportation Appropriations bill, in order to create an academic and industry-led consortium to demonstrate the application of polymer additives in pavement for civil engineering purposes.

Mr. SHELBY. Mr. President, it is my pleasure to stand shoulder-to-shoulder with my colleague from South Carolina, the distinguished President pro tempore, in this effort to increase funding for research into the use of polymer additives for asphalt and concrete pavement.

The Transportation Appropriations Subcommittee directed that \$2 million be committed for further research into polymer additives. Limited resources prohibited us from committing additional resources to this effort.

The provision the Committee added to the Report was designed to respond to a shortfall in this area by directing federal research efforts into further study of the effects of polymer additives on pavement quality and performance.

I greatly appreciate the Senator from South Carolina's interest in this matter, and I look forward to working with him and the FHWA to ensure this research is completed and reported to the states and other interested parties in a timely fashion.

Mr. KERRY. There were legitimate reasons to vote against the omnibus appropriations bill. This process was an insult to the Congress. The Republican leadership has put the Congress in an untenable position by refusing to pass many appropriations bills in regular order. I chose to vote for this legislation because of the important things it does for Massachusetts and the nation, and because I do not believe it is useful to cast a protest vote. I am hopeful that in the 106th Congress we can engage in a true legislative process.

Today, the Senate will give final approval to legislation to preserve a balanced budget for the first time in more than a generation. A balanced federal budget has been a key objective for me since I came to the Senate in 1985.

The Federal government had run a deficit continuously for more than 30 years until last year. It soared to dangerous levels in the 1980s during the Reagan and Bush Administrations. As a result of these deficits, our national debt multiplied several times, exacting a heavy toll on our economy, increasing interest rates, squeezing federal spending and making debt service one of the largest expenditures in the Federal budget.

In 1993, following President Clinton's election, we began the long journey back from crushing deficits and toward fiscal responsibility by passing an enormously successful economic plan. The full power of our economy was unleashed: unemployment is at record low; interest rates are subdued; and economic growth continues to be strong. This path culminated in last year's agreement to balance the budget and

provide substantial broad-based tax relief for working American families and small businesses.

This year's federal budget is a continuation along the path of fiscal responsibility. At the same time, it begins to address some of our most pressing problems in education.

I am pleased that the omnibus appropriations bill rejects the House Republican approach and expands spending on education. The bill includes funding to begin hiring one hundred thousand new teachers which will assist local school communities to reduce class size in the early grades to 18 students. One hundred thousand new teachers will allow more individual attention for students which will lead to better reading and math scores in the future.

The final bill also includes \$75 million to recruit and prepare thousands of teachers to teach in high-poverty areas. It also includes \$75 million to train new teachers in how to use technology so that they can better assist their students. This funding is focused on assisting the schools and teachers who need the most help.

We must do everything possible to increase the reading skills of our children so that they can compete in the global economy in the 21st century. This budget includes 260 million for the Child Literacy Initiative which will improve teachers' ability to teach reading, family literacy, and conduct tutor training to help children learn to read by the end of the third grade.

Five million children are locked into a school day that ends in the early afternoon and dumps them into empty apartments, homes or violent streets despite the fact that we know those post-school hours are when teen pregnancies occur, drug use begins, and juvenile crime flourishes. The budget agreement includes \$200 million for after-school programs that will help keep 250,000 children of the streets and into learning.

We also must develop an educational system which prepares our children and young people for adulthood. Today, we are failing too many of our children with crumbling schools, overcrowded classrooms, and inadequately prepared teachers. The federal government provides a small amount of the total funding for public elementary and secondary education—less than seven percent of total public spending on K-12 education comes from the federal government, down from just under 10 percent in 1980. Reading scores show that of 2.6 million graduating high school students, one-third are below basic reading level, one-third are at basic, only one-third are proficient, and only 100,000 are at a world class reading level.

Mr. President, I am developing legislation for next year to help every school make a new start on their own. It will be built on challenge grants for schools to pursue comprehensive reform and adopt the proven best practices of any other school, funds to help